

ASSEMBLY BILL

No. 995

Introduced by Assembly Member Frazier

February 22, 2013

An act to amend Section 1804 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 995, as introduced, Frazier. Public utilities: intervenor fees: customers.

Existing law requires a customer who intends to seek an award for intervenor fees to timely file and serve on all parties to the proceeding a notice of intent to claim compensation, containing specified information. Existing law authorizes an administrative law judge that is assigned to the proceeding in which intervenor compensation is sought to issue a ruling addressing issues raised by the notice of intent to claim compensation and to point out similar positions, areas of potential duplication in showings, unrealistic expectation for compensation, and any other matter that may affect the customer's ultimate claim for compensation. Existing law authorizes a customer found to be eligible for compensation to file within 60 days of the issuance of a final order or decision of the Public Utilities Commission a request for an award.

This bill would revise the time period for a customer to file a request for an award to 30 days of the issuance of a final order or decision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1804 of the Public Utilities Code is amended to read:

1804. (a) (1) A customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation. In cases where no prehearing conference is scheduled or where the commission anticipates that the proceeding will take less than 30 days, the commission may determine the procedure to be used in filing these requests. In cases where the schedule would not reasonably allow parties to identify issues within the timeframe set forth above, or where new issues emerge subsequent to the time set for filing, the commission may determine an appropriate procedure for accepting new or revised notices of intent.

(2) (A) The notice of intent to claim compensation shall include both of the following:

(i) A statement of the nature and extent of the customer's planned participation in the proceeding as far as it is possible to set it out when the notice of intent is filed.

(ii) An itemized estimate of the compensation that the customer expects to request, given the likely duration of the proceeding as it appears at the time.

(B) The notice of intent may also include a showing by the customer that participation in the hearing or proceeding would pose a significant financial hardship. Alternatively, such a showing shall be included in the request submitted pursuant to subdivision (c).

(C) Within 15 days after service of the notice of intent to claim compensation, the administrative law judge may direct the staff, and may permit any other interested party, to file a statement responding to the notice.

(b) (1) If the customer's showing of significant financial hardship was included in the notice filed pursuant to subdivision (a), the administrative law judge, in consultation with the assigned commissioner, shall issue within 30 days thereafter a preliminary ruling addressing whether the customer will be eligible for an award of compensation. The ruling shall address whether a showing of significant financial hardship has been made. A finding of

1 significant financial hardship shall create a rebuttable presumption
2 of eligibility for compensation in other commission proceedings
3 commencing within one year of the date of that finding.

4 (2) The administrative law judge may, in any event, issue a
5 ruling addressing issues raised by the notice of intent to claim
6 compensation. The ruling may point out similar positions, areas
7 of potential duplication in showings, unrealistic expectation for
8 compensation, and any other matter that may affect the customer's
9 ultimate claim for compensation. Failure of the ruling to point out
10 similar positions or potential duplication or any other potential
11 impact on the ultimate claim for compensation shall not imply
12 approval of any claim for compensation. A finding of significant
13 financial hardship in no way ensures compensation. Similarly, the
14 failure of the customer to identify a specific issue in the notice of
15 intent or to precisely estimate potential compensation shall not
16 preclude an award of reasonable compensation if a substantial
17 contribution is made.

18 (c) Following issuance of a final order or decision by the
19 commission in the hearing or proceeding, a customer who has been
20 found, pursuant to subdivision (b), to be eligible for an award of
21 compensation may file within ~~60~~ 30 days a request for an award.
22 The request shall include at a minimum a detailed description of
23 services and expenditures and a description of the customer's
24 substantial contribution to the hearing or proceeding. Within 30
25 days after service of the request, the commission staff may file,
26 and any other party may file, a response to the request.

27 (d) The commission may audit the records and books of the
28 customer to the extent necessary to verify the basis for the award.
29 The commission shall preserve the confidentiality of the customer's
30 records in making its audit. Within 20 days after completion of
31 the audit, if any, the commission shall direct that an audit report
32 shall be prepared and filed. Any other party may file a response
33 to the audit report within 20 days thereafter.

34 (e) Within 75 days after the filing of a request for compensation
35 pursuant to subdivision (c), or within 50 days after the filing of an
36 audit report, whichever occurs later, the commission shall issue a
37 decision that determines whether or not the customer has made a
38 substantial contribution to the final order or decision in the hearing
39 or proceeding. If the commission finds that the customer requesting
40 compensation has made a substantial contribution, the commission

- 1 shall describe this substantial contribution and shall determine the
- 2 amount of compensation to be paid pursuant to Section 1806.

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